

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

MULHEARN WILSON CONSTRUCTORS, INC.

PLAINTIFF

v.

4:19CV00070-BRW

GAMECOCK GAMERS, LLC and KIRK CUPP

DEFENDANTS

ORDER

A question of subject-matter jurisdiction may be raised *sua sponte* at any time. Federal court diversity jurisdiction requires an amount in dispute over \$75,000 and all parties on one side of the controversy must be citizens of different states from all of the parties on the other side.

Plaintiff is a citizen of Arkansas. Although Defendants assert that Mr. Cupp is fraudulently joined, they admit that he is Gamecock Gamers LLC's "managing member" and an Arkansas citizen.¹ "For purposes of diversity jurisdiction, the citizenship of a limited liability company is determined by the citizenship of all of its members."² Because it is undisputed that Mr. Cupp is a member of the LLC and an Arkansas citizen, complete diversity is lacking.

Accordingly, the Clerk of the Court is directed to immediately REMAND this case to the Circuit Court of Pulaski, County. Defendants' Motion to Dismiss (Doc. No. 16) is DENIED.

IT IS SO ORDERED this 5th day of June, 2019.

Billy Roy Wilson
UNITED STATES DISTRICT JUDGE

¹Doc. Nos. 1, 6.

²*Jennings v. HCR ManorCare Inc.*, 901 F. Supp. 2d 649, 651 (D. S.C. 2012) (internal citations omitted); *E3 Biofuels, LLC v. Biothane, LLC*, 781 F.3d 972, 975 (8th Cir. 2015) (quoting *OnePoint Solutions, LLC v. Borchert*, 486 F.3d 342, 346 (8th Cir. 2007)) ("An LLC's citizenship, for purposes of diversity jurisdiction, is the citizenship of each of its members.").